

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANIEL SHELTON HARRIS,

Plaintiff,

vs.

No. CV 19-00472 MV/KBM

SHANE FERRARI, et al.,

Defendants.

ORDER ON PENDING MOTIONS

THIS MATTER is before the Court on the handwritten motion for appointment of counsel (Doc. 18) and Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. 20) filed by Plaintiff, Daniel Shelton Harris. The Court will deny the motion for appointment of counsel and will strike the Application to Proceed as unnecessary and moot.

Plaintiff Harris has filed a handwritten motion asking the Court to appoint counsel to represent him. (Doc. 18). There is no right to appointment of counsel in a civil rights case. Instead, the decision whether to request assistance of counsel rests in the sound discretion of the Court. *Beaudry v. Corrections Corp. of America*, 331 F.3d 1164, 1169 (10th Cir.2003); *MacCuish v. United States*, 844 F.2d 733, 735 (10th Cir.1988). In determining whether to appoint counsel, the district court should consider the merits of the litigant's claims, the nature and complexity of the factual and legal issues, and the litigant's ability to investigate the facts and to present his claims. *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir.2004). The Court has reviewed the complaint and subsequent filings in light of the foregoing factors. Plaintiff Harris appears to understand the issues in the case and to be representing himself in an intelligent and capable

manner. *See Lucero v. Gunter*, 52 F.3d 874, 878 (10th Cir. 1995). Accordingly, the Court will deny the motion to appoint legal counsel. (Doc. 18).

Plaintiff has also filed an Application to Proceed in District Court Without Prepayment of Fees or Costs (Doc. 20). However, Plaintiff previously sought leave to proceed *in forma pauperis* and the Court granted him leave to proceed under 28 U.S.C. § 1915. (Doc. 2, 3). Therefore, the Court will strike the Application to Proceed (Doc. 20) as unnecessary and moot.

IT IS ORDERED:

- (1) the handwritten motion for appointment of counsel filed by Plaintiff Daniel Shelton Harris (Doc. 18) is **DENIED**; and
- (2) the Application to Proceed in District Court Without Prepayment of Fees or Costs filed by Plaintiff Daniel Shelton Harris (Doc. 20) is **STRICKEN** as unnecessary and moot.



Karen B. Molzen
UNITED STATES MAGISTRATE JUDGE